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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,524	03/08/2001	Kunimasa Suzuki	204078US6	5017

22850 7590 12/26/2007  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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SHAAWAT, MUSSA A

ART UNIT	PAPER NUMBER
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3627

NOTIFICATION DATE	DELIVERY MODE
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12/26/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/800,524	<b>Applicant(s)</b> SUZUKI ET AL.	
	<b>Examiner</b> MUSSA A. SHAAWAT	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9-12,14-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-7, 9-12, 14-17, and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This action is in response to amendment filed on July, 06, 2007. Claims 3, 8, 13 and 18 have been previously cancelled. Claims 1, 2, 4-7, 9-12, and 14-16 have been amended. Claims 21-24 are newly added claims. Claims 1-2, 4-7, 9-12, 14-17, and 19-24 are pending examination.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-2, 4-7, 9-12, 14-17, and 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 6, 11, and 16 recite, "means for receiving via a network first order information of merchandise and second order information of said merchandise, the first order information being formed based on a first purchase request received via a first sales channel that uses the network and the second order information being formed based on a second purchase request received via a second sales channel which is a point-of-sale location that **does not use the network**", the underlined features render the claim indefinite. First applicant describes that the first and second order information are both received via the network, then he describes that the second order information being formed based on a purchase request is not received via a network. The two statements are contradictory. For the purpose of examination, the underlined features will be interpreted as best understood.

In addition, Claims 1, 6, 11 and 16 recite “means for grasping an actual sales condition”, this also renders the claim indefinite. Correction is required by applicant.

4. All claims depending from the rejected claims are rejected based on the same rationale, due to their dependency from rejected claims.

***Claim Rejections – 35 U.S.C. 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

7. Claims 1-2, 4-7, 9-12, 14-17, and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharp et al. US Pat. No. (6,263,317), in view of Hafner et al. US Pat. No. (5,839,076).

Sharp disclose order information receiving means for receiving via a computer global network 150 at least first and second order information of merchandise (See for example Col. 1, line 56); the first and second order information being formed based on

respective first and second purchase requests received via respective first and second sales channels (i.e., first and second customers; See Col. 1, lines 54-58) that use the network (See for example Col. 3, lines 14-17); means for instructing a supplier of said merchandise to supply the merchandise based on the stock information (see col.3 lines 35-60); means for grasping an actual sales condition of said merchandise in the first and second sales channels based on the order information (see col. 3 line 61-col.4 line 55).

Sharp Does not expressly teach generating stock control information to control a stock of said merchandise to be distributed to the first and second sales channels based on the first and second order information and indicating through which of the first sales channel and the second sales channel a purchase request was received.

However Hafner, teaches generating stock control information to control a stock of said merchandise to be distributed to the first and second sales channels based on the first and second order information (see at least col.5 line15-col.6 line41)

Both Sharp et al., and Hafner et al., fail to teach indicating through which of the first sales channel and the second sale channel the purchase request was received.

Examiner takes Official Notice that indicating through which sales channel a purchase order was received is old and well know in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the disclosure of Sharp and Hafner to include indicating through which channel a purchase request was received so that a merchant would know which channel or means to sell his merchandise in order to increase profit.

Re: Claim 4 Sharp teaches receiving order information via the internet (see col. 1 lines 50-60)

Re: Claims 5-6, 9-11, 14-16 and 19-20, the limitations of claims 5-6, 9-11, 14-16 and 19-20, are similar to the limitations of claims 1, and 4, therefore they are rejected based on the same rationale.

Re claims 2, 7, 12, and 17, these claims are rejected under the old Official notice rejection dated 4/7/2006, the rejection was not traversed by applicant therefore according to MPEP 2144.03(c) it is considered admitted prior art. Sharp et al. in view of Hafner et al. lack the specific teaching of stopping the supply of merchandise due to the sales debut of a new product. However, it is well known in the art to stop the supply of a product when it is about to be replaced by a new product and it would have been obvious to one of ordinary skill in the art at the time of the invention to employ the step of stopping the supply of a product for a predetermined period before a new product is released, to prevent the accumulation of unwanted inventory.

Re claim 21-24: although Sharp does teach updating stock or inventory, Sharp does not expressly teach receiving an indication that the merchandise is returned or exchanged at the point of sale location. However Hafner teaches receiving an indication that the merchandise is returned or exchanged at the point of sale location (see at least col.3 line 64-col.4 line 15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Hafner into the disclosure of Sharp in order to better manage the merchants inventory.

***Response to Arguments***

8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See above.

***Contact Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A. Shaawat whose telephone number is 571-272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mussa Shaawat, Patent Examiner

December 17, 2007  
/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627